

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

CENTRA, INC., ET AL,

Plaintiffs,

v.

DAVID ESTRIN, ET AL,

Defendants.

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Case No. 06-15185

Honorable Nancy G. Edmunds

**ORDER REGARDING PROCEDURES FOR PRELIMINARY INJUNCTION HEARING**

This matter has been scheduled for a hearing on Plaintiffs' motion for preliminary injunction beginning on **Monday, January 12, 2009 at 9:30 a.m. and continuing on January 13 and 14, 2009**. Such hearings, in the experience of the Court, are often comparable to non-jury trials, and counsel are thus directed to attend to the following instructions:

**1) Responsibility of Plaintiffs' counsel:**

Plaintiffs' counsel must convene a meeting of all attorneys, as soon as can practically be done, to discuss and resolve the issues noted herein. Such meeting may, in the discretion of counsel, be by telephone if all purposes of this order can be effectively dealt with through such means.

**2) Exhibits: Examining, Pre-marking, and Listing**

a) Counsel must identify in separate lists and exchange with opposing counsel each exhibit and each deposition proposed as an exhibit. "Exhibit" includes items which a party will introduce and items which a party may introduce.

b) Counsel must promptly notify each other of any objections to the admissibility of a proposed exhibit and the basis of the objection.

c) Agreed-upon exhibits and depositions shall be considered admitted at the outset of the hearing and may be used by either party at any time.

d) All exhibits must be marked by counsel in advance of the hearing. Counsel must not use court time asking the court reporter to mark exhibits. Plaintiffs will use exhibit markers beginning with 101, and Defendants will use numbers beginning with 501. In the event that an extraordinary number of exhibits are involved, counsel should discuss and decide upon a reasonable alteration of the above numbering system.

**3) Filing or Submitting to Chambers Stipulated Exhibits, Depositions, Briefs, and Other Matters**

a) **On or before November 26, 2008**, Plaintiffs shall file:

A Brief supporting its motion for preliminary injunction, which shall include separately numbered proposed findings of fact (with references to supporting documentation) and proposed conclusions of law and shall provide the Court with a copy of the brief in electronic form (e.g., computer CD or disc); and

b) **On or before December 10, 2008**, Defendants shall file:

A Response Brief, which shall include separately numbered proposed findings of fact (with references to supporting documentation) and proposed conclusions of law and shall provide the Court with a copy of the brief in electronic form (e.g., computer CD or disc); and

c) **On or before December 22, 2008**, Plaintiffs shall file:

A Reply Brief, which shall include separately numbered proposed findings of fact (with references to supporting documentation) and proposed conclusions of law and shall provide the Court with a copy of the brief in electronic form (e.g., computer CD or disc);

- d) **On or before December 30, 2008**, Plaintiffs and Defendants must:
- i) Exchange a list of exhibits and depositions;
  - ii) File a list of the witnesses you intend to call, with a brief statement of the proposed testimony (one or two sentences) and an estimate of the time to be consumed in direct and cross examination as to each.
- e) **On or before January 5, 2009**, counsel must:
- i) File a joint list of exhibits and depositions ("Joint Exhibit List"). Each exhibit and each deposition that is not agreed to by the parties must be followed by a notation near the right margin of the page entitled "Objection:"; this notation shall be followed by a brief statement describing the nature or basis of the opposing party's objection;
  - ii) File motions in limine;
  - iii) Submit to the Court in chambers copies of the exhibits themselves, unless the bulk or other considerations make such submission impractical, and copies of the agreed-upon deposition testimony identified in the listing ordered above;
  - iv) File a joint statement of counsel concerning the suitability of consolidation of hearing and trial under Federal Rule of Civil Procedure 65(a)(2);<sup>1</sup>

**SO ORDERED.**

s/Nancy G. Edmunds  
Nancy G. Edmunds  
United States District Judge

Dated: November 12, 2008

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<sup>1</sup>In a case where a permanent injunction is being sought which is essentially a mirror of the preliminary injunction, counsel must discuss and recommend to the Court the suitability of consolidating the hearing on preliminary injunction with a trial on the merits of the application for permanent injunction, pursuant to Federal Rule of Civil Procedure 65(a)(1) & (2).

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on November 12, 2008, by electronic and/or ordinary mail.

s/Carol A. Hemeyer  
Case Manager